

<b>DATE OF DETERMINATION</b>	Tuesday, 30 October 2018
<b>PANEL MEMBERS</b>	Pam Allan (Chair), Alison McCabe and Renata Brooks
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	None

Public meeting held at The Pavilion on 30 October 2018, opened at 10.00am and closed at 11.40am.

#### **MATTER DETERMINED**

2016STH035 – Kiama - 10.2016.304.1 at 100 Terralong Street Kiama, 3 Akuna Street Kiama, 55 Shoalhaven Street Kiama, 61 Shoalhaven Street Kiama (as described in Schedule 1).

#### **PANEL CONSIDERATION AND DECISION**

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel adjourned during the meeting to deliberate on the matter and formulate a resolution.

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*, subject to the conditions contained in the report and additional and amended conditions as follows.

- A. New deferred commencement condition:
  2. Submission of amended plans that:
    - (a) Extend the northern planter bed adjacent to Units E102, E103, E104 and E105 by 2.5 metres to the north east to improve visual and acoustic separation to the loading bay.
    - (b) Revise the layout of units E101, 102, 201 and 202 to minimise the impact of the public walkway on the liveability of these units. This should involve reorganisation of the outdoor area and reconfiguration of rooms to minimise outlook and openings to the west. Units E301 and E302 may also be reconfigured if deemed appropriate.
- B. Additional conditions:
  - i. A public right of way shall be registered over the western pedestrian access to the satisfaction of Council prior to the release of any Occupation Certificate or Strata Subdivision plan. The right of way shall extend from Akuna Street through the building to Terralong Street.
  - ii. Amendment to Condition 45 to reference the revised concept plans prepared by Ochre Landscapes to include the correct drawing reference numbers.
  - iii. Amend Condition 40(e) to require a community engagement plan to be prepared and implemented during the construction phase. The plan to include a complaints protocol.
  - iv. Amend Condition 29(d) to reflect the correct DP number.




#### **CONDITIONS**

The development application was approved subject to the conditions in Annexure 5 of the Supplementary Council Assessment Report with the amendments outlined above.

The decision was unanimous.

## REASONS

1. The modifications to the proposal have addressed numerous issues of concern raised at previous meetings by the community and the Panel. Further conditions are proposed to improve liveability of units adjacent to the proposed public walkway, secure ongoing public access to the walkway and respond to community concerns about potential impacts during construction.
2. The Panel considered that the application substantially meets the requirements of relevant legislation and planning instruments and that approval is in the public interest for the reasons documented in the amended assessment report dated 17 October 2018, and subject to appropriate conditions.
3. The Panel considered that departures from standards in relation to floor space ratio, building height, and street activation are justified, and that the clause 4.6 Exception to Development Standards have adequately addressed the matters at clause 4.6(3) and the proposed development is in the public interest.

PANEL MEMBERS	
 Pam Allan (Chair)	 Alison McCabe
 Renata Brooks	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2016STH035 – Kiama - 10.2016.304.1
2	PROPOSED DEVELOPMENT	Further revised plans for mixed use development comprising retail and commercial premises (including supermarket); ninety-six (96) residential units; and multi-level basement car park containing a total of 346 spaces.
3	STREET ADDRESS	100 Terralong Street Kiama, 3 Akuna Street Kiama, 55 Shoalhaven Street Kiama, 61 Shoalhaven Street Kiama
4	APPLICANT OWNER	ADM Architects Kiama Municipal Council
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>Environmental planning instruments: <ul style="list-style-type: none"> <li>State Environmental Planning Policy No 55 – Remediation of Land</li> <li>State Environmental Planning Policy No 64 – Advertising and Signage</li> <li>State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development</li> <li>State Environmental Planning Policy (State &amp; Regional Development) 2011</li> <li>State Environmental Planning Policy (Building &amp; Sustainability Index – BASIX) 2004</li> <li>State Environmental Planning Policy (Infrastructure) 2007</li> <li>State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017</li> <li>State Environmental Planning Policy (Coastal Management) 2018</li> <li>Kiama Local Environmental Plan 2011</li> </ul> </li> <li>Draft environmental planning instruments: Nil</li> <li>Development control plans: <ul style="list-style-type: none"> <li>Kiama Development Control Plan 2012</li> </ul> </li> <li>Planning agreements: Nil</li> <li>Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil</li> <li>Coastal zone management plan: Nil</li> <li>The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>The suitability of the site for the development</li> <li>Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>Council assessment report: 24 November 2017</li> <li>Written submissions during public exhibition: Public exhibition of revised development application (19th February to 5th March 2018). This period was extended until the 9th March 2018 following problems with Council's "DA Tracker" on its website. The further revised development application was notified between 19 September and 3 October 2018. A total of eighteen (18) submissions were made during this exhibition period.</li> <li>Addendum Assessment Report (dated 6 December 2017) and attachments, including revised architectural plans.</li> <li>Verbal submissions at the public meeting on 11 December 2017: <ul style="list-style-type: none"> <li>Support – Nil</li> <li>Object – Harry Osman, Tamara Campbell</li> </ul> </li> </ul>

		<ul style="list-style-type: none"> <li>○ On behalf of the applicant – Angelo Di Martino, Nicolas Daoud, Elaine Treglown</li> <li>• Supplementary Council assessment report: 13 April 2017</li> <li>• Council assessment report: 24 November 2017</li> <li>• Verbal submissions at the public meeting on 30 April 2018: <ul style="list-style-type: none"> <li>○ Support – Chris Lovatt and Waleed Wehbe.</li> <li>○ Object – Peter O’Neill, Ron Parkinson, Janelle Fowler, Becky Guggisberg, Neil Reilly, Madelaine Scarfe, Heather O’Neill, Karen Renkema-Lang, Peter Stuckey, Phillip Lambert, Scott Smith and Betty Makin.</li> <li>○ On behalf of the applicant – Nicolas Daoud, Nicolas El-Khoury, Angelo Di Martino and Elaine Treglown.</li> </ul> </li> <li>• Supplementary Council assessment report: 17 October 2018</li> <li>• Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>○ Support – Nil</li> <li>○ Object – Peter O’Neill, Geoff Pratt, Karen Renkema-Lang, Dave Evans and Harry Osman.</li> <li>○ Council’s consultant planner – Stephen Richardson</li> <li>○ On behalf of the applicant – Angelo Di Martino and Nicolas Daoud</li> </ul> </li> </ul>
<b>8</b>	<b>MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL</b>	<ul style="list-style-type: none"> <li>• Site inspection and briefing 15 March 2017</li> <li>• Site inspection by Lindsay Fletcher on 11 December 2018</li> <li>• Final briefing and determination meeting on 11 December 2017</li> <li>• Final briefing and determination meeting on 30 April 2018</li> <li>• Final briefing to discuss council’s recommendation, 30 October 2018.</li> </ul> Attendees: <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Pam Allan (Chair), Alison McCabe and Renata Brooks</li> <li>○ Council assessment staff: Linda Davis, Brendan Leo</li> <li>○ Consultant Planner: Stephen Richardson of Cowman Stoddart</li> </ul>
<b>9</b>	<b>COUNCIL RECOMMENDATION</b>	Approval
<b>10</b>	<b>DRAFT CONDITIONS</b>	Attached to the council assessment report